

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	No. 63161-6-I
Respondent,)	
)	DIVISION ONE
v.)	
)	UNPUBLISHED OPINION
ERIC ROBERT ANICHINI,)	
)	
Appellant.)	FILED: May 10, 2010
)	

Appelwick, J. — Eric Anichini was arrested for failure to provide identifying information during a valid traffic stop. During a search for identification incident to that arrest, police discovered methamphetamine in Anichini's wallet. Anichini appeals his conviction for possession of methamphetamine, arguing the arrest was not supported by probable cause. A person requested to identify himself to law enforcement pursuant to an investigation of a traffic infraction has a duty to give sufficient identifying information. Anichini's failure to give his correct name or other identifying information provided probable cause for his arrest. The search for identification was proper. We affirm.

FACTS

On November 15, 2008, Deputy Stephen Gordon was monitoring traffic and observed a van with a dangerously cracked windshield drive by him. He initiated a traffic stop, and the van pulled into the 112th Street Park and Ride. After contacting the driver of the van, Deputy Gordon noticed Eric Anichini sitting in the front passenger seat without a seatbelt on. The deputy asked Anichini for his name. Anichini gave the name Bill R. Moore. The deputy noted that Anichini's answer was hesitant, and that Anichini would not really look at the Deputy as he answered. Anichini did not respond when Deputy Gordon asked for his date of birth. Instead, he stated that he had not done anything wrong. Anichini started to move around and open the passenger door, so Deputy Gordon ordered Anichini to remain in the van.

Deputy Mark Monson arrived as backup, and Deputy Gordon explained to him that Anichini would not cooperate, and that he believed Anichini was not giving correct identifying information. Deputy Monson approached Anichini, asked him to step out of the vehicle, and arrested him for failing to cooperate or refusing to identify himself. In a search of Anichini's person for identification, incident to the arrest, Deputy Monson found a wallet with several pieces of identification with Anichini's name on it, along with a baggy that appeared to contain methamphetamine.

The State charged Anichini with possession of methamphetamine.¹ Anichini moved to suppress the evidence obtained from the search, arguing police did not have a lawful basis for requesting that he identify himself. The

¹ The crime was committed while on community custody.

court denied the motion to suppress. A jury found Anichini guilty as charged, and he timely appealed.

DISCUSSION

Anichini contends the trial court erred in denying his motion to suppress, arguing that police lacked probable cause to arrest him for failure to identify himself. Anichini does not challenge the court's factual findings on the suppression motion, so they are verities on appeal. State v. Acrey, 148 Wn.2d 738, 745, 64 P.3d 594 (2003). We review conclusions of law in an order pertaining to suppression of evidence de novo. State v. Johnson, 128 Wn.2d 431, 443, 909 P.2d 293 (1996).

Under the Washington Constitution, a lawful custodial arrest is a constitutional prerequisite to any search incident to arrest. State v. O'Neill, 148 Wn.2d 564, 587, 62 P.3d 489 (2003). The lawfulness of an arrest stands on the determination of whether probable cause supports the arrest. State v. Potter, 156 Wn.2d 835, 840, 132 P.3d 1089 (2006). Probable cause exists when the arresting officer has knowledge of facts sufficient to cause a reasonable officer to believe that an offense has been committed at the time of the arrest. Id.

Deputy Monson searched Anichini incident to arrest for failing to cooperate or refusing to identify himself, in violation of RCW 46.61.021(3). RCW 46.61.021(3) provides that "[a]ny person requested to identify himself or herself to a law enforcement officer pursuant to an investigation of a traffic infraction has a duty to identify himself or herself." To arrest Anichini for violation of RCW 46.61.021(3), there must have been probable cause of the

violation and an investigation of a traffic infraction. State v. Moore, 161 Wn.2d 880, 885–86, 169 P.3d 469 (2007) (“the officer must ask the individual for identification *pursuant to an investigation* of a traffic infraction.”).

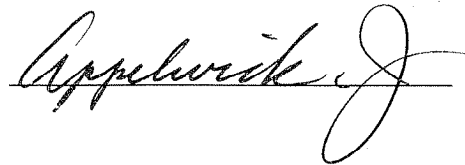
In State v. Moore, the Court held that probable cause did not support Moore’s arrest for refusal to give information, because the officer was not investigating a traffic infraction (the underlying infraction was having a dangerous dog outside an enclosure). Id. at 886. The officer had only mentioned her observation of Moore’s failure to wear a seat belt in a supplemental report. Id. The officer further testified that she had not asked Moore for his name pursuant to an investigation of Moore’s seat belt infraction. Id. Here, Deputy Gordon specifically testified at the CrR 3.6 hearing that he was trying to identify Anichini because he was not wearing a seatbelt. RCW 46.61.688(3) provides that “[e]very person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.” Unlike in Moore, Deputy Gordon asked for identification pursuant to investigation of Anichini’s failure to wear a seat belt.

Probable cause existed for Anichini’s arrest, based on Deputy Gordon’s reasonable belief that Anichini refused to accurately identify himself during the investigation of Anichini’s traffic infraction. Deputy Gordon noted Anichini’s hesitation when asked to identify himself, including lack of eye contact. Anichini refused to give his date of birth when the Deputy requested it, and instead began to open the passenger door. These facts are sufficient to have caused

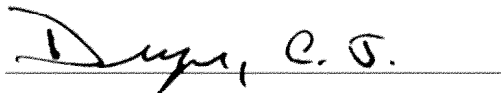
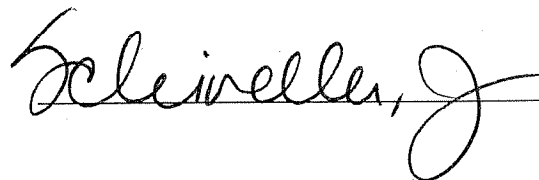
Deputy Gordon to believe that Anichini was not accurately identifying himself.

Potter, 156 Wn.2d at 840.

Because probable cause supported Anichini's arrest, the trial court did not err in concluding the search of his person for identification, incident to arrest, was lawful. We therefore hold the trial court did not err in denying Anichini's motion to suppress the evidence obtained during the search and affirm his conviction.

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WE CONCUR:

A handwritten signature in cursive script, reading "Dwyer, C. S.", written over a horizontal line.A handwritten signature in cursive script, reading "Schweidler, J.", written over a horizontal line.